
PROPOSALS FOR THE STATUTORY CONTROL OF ODOURS AND OTHER NUISANCES FROM SEWAGE TREATMENT WORKS - CONSULTATION

1 SUMMARY

- 1.1 This report summarises the main points in the consultation paper from the Department for Environment, Food and Rural Affairs (DEFRA) on the proposals for the statutory controls of nuisances from sewage treatment works in England. Comments on the consultation document are required by 28 March 2003.

2 BACKGROUND

- 2.1 Local Authorities and water companies have long regarded sewage treatment works as 'premises' for the purposes of Sections 79-80 of the Environmental Protection Act 1990 (EPA). Local authorities could therefore take enforcement action in respect of statutory nuisances occurring at sewage treatment works. Rochford District Council has itself taken such action in the past.
- 2.2 This interpretation of the legislation has, however, been recently tested in the courts and everyone concerned now accepts that as the law currently stands, public sewers and sewage treatment works cannot be considered 'premises' to which the nuisance provision of the EPA apply.
- 2.3 DEFRA are now consulting on four options, including maintaining the existing arrangements, for the control of odours and other nuisances from sewage treatment works

3 DEFRA PROPOSED OPTIONS

- 3.1 **Option 1:** No legislative change, proposed code of practice for the industry.

Water companies and other stakeholders would be encouraged to produce a voluntary code of practice. This option would have the significant benefit of not generally resulting in increased costs for water companies, which they might seek to pass on to customers.

- 3.2 **Option 2:** Extension of the Statutory Nuisance regime to include odours and other nuisances from sewage treatment works

This would enable local authorities to take formal abatement notice action where a statutory nuisance was found to exist. Failure to

comply with an abatement notice is an offence that upon conviction can currently result in a fine of up to £20,000. The operator of the sewage treatment works would have the statutory defence that 'best practicable means' were being used to control the nuisance.

3.3 Option 3. Local Air Pollution Prevention and Control (LAPPC)

The LAPPC regime would be extended to apply to all sewage works, except those that are to be controlled under Integrated Pollution Prevention and Control (IPPC) from 2004. Local Authorities would be responsible for issuing and monitoring permits based on the use of 'best available techniques' for minimising air emissions. There would be additional resource implications for Local Authorities and operators.

3.4 Option 4. Extension of the Integrated Pollution Prevention Control Scheme (IPPC)

IPPC, which will be primarily enforced by the Environment Agency, would be extended to cover all sewage works. In 2004 some operations at a minority of sewage works will become regulated under the Pollution Prevention and Control (England and Wales) Regulations 2000, which apply to waste disposal activities. Permits will have to contain conditions about odour control if odours are considered to be significant. Conditions may also be set for water, waste, energy use, noise, vibrations and accidents. Non-compliance with those conditions would lead to enforcement action and possibly to prosecution.

The extension of the IPPC regime to cover relevant sewage works would place a significant burden on the operator and regulators and could be seen as a disproportionate approach to an odour problem.

4 OFFICER COMMENTS

There is a necessity to ensure that adequate control over emissions from sewage treatment works is in place such that they do not cause an unacceptable nuisance. Whilst some merit is seen in the extension of the IPPC regime to include sewage treatment works, the extension of the statutory nuisance regime, contained within the Environmental Protection Act 1990, to include sewage treatment works is, on balance, considered the most effective and appropriate option. The regime is clearly understood by both the regulator, industry and associated stakeholders. It would simply reinstate the position, as it was understood until recent times. A voluntary code of practice as referred to in Option 1 would, however, be of assistance and should receive support, but there is a need for formal controls if this fails.

5 RESOURCE IMPLICATIONS

- 5.1 The voluntary code of practice, proposed in Option 1, would not in itself impose any additional costs on the local authority.
- 5.2 Option 2, statutory nuisance regime, would restore the situation to that which was until recently thought to exist and could be met within existing staff resources.
- 5.3 Option 3 would require some additional staff resources but would be accommodated within the existing LAPPC regime.
- 5.4 Should the local authority be the relevant authority for the proposed extension of the IPPC regime in Option 4, there would be significant additional enforcement duties which could not be met within existing staff resources.

6 PARISH IMPLICATIONS

- 6.1 Stambridge Parish Council, Sludgewatch and Anglian Water Services have been invited to attend this committee.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee considers the following and **recommends** accordingly:

That, subject to comments from Members, DEFRA be advised that this Council supports Option 2 of the consultative document, 'The Extension of the Statutory Nuisance regime to include odours and other nuisances from sewage treatment works'. The development of a 'voluntary code of practice' is also seen as a benefit that would assist in consistent operation and enforcement. (HHHCC)

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Background Papers:

Department Environment Food and Rural Affairs: Proposals for the Statutory Control of Odour & Other Nuisance from Sewage Treatment Works – Consultation December 2002

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